

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,	:	
	:	
	:	Criminal Action No. 15-177 (ES)
v.	:	
	:	MEMORANDUM
ADOLPHUS NWOKEDI,	:	
	:	
Defendant.	:	
	:	

Before the Court is *pro se* Adolphus Nwokedi's motion seeking to reduce his imprisonment term under 18 U.S.C. § 3582(c)(2) in view of an amendment to the United States Sentencing Guidelines. (D.E. No. 66). The Court must DENY this motion for the reason below.

In 2014, the U.S. Sentencing Commission voted such that lower drug sentences would be imposed after November 2014. This is known as Amendment 782 and applies only to those sentences calculated using § 2D1.1. *See United States v. Tolendano*, 643 F. App'x 145, 147 n.4 (3d Cir. 2016) ("Amendment 782 reduced the offense levels by two levels for most drug quantities under U.S.S.G. § 2D1.1.") (citing U.S.S.G. App. C., Amendment 782).

Under 18 U.S.C. § 3582(c)(2), a sentencing court can reduce an imprisonment term pursuant to a defendant's motion if (1) the defendant "has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission" and (2) "if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." "A reduction in sentence is not consistent with the relevant policy statement unless the amendment has 'the effect of lowering the defendant's applicable

guideline range.’’ *United States v. Rengifo*, 637 F. App’x 60, 61-62 (3d Cir. 2016) (per curiam) (quoting U.S.S.G. § 1B1.10(a)(2)(B)).

On December 8, 2016, the Undersigned imposed a sentence of 63 months on the charge of conspiracy to import heroin in violation of 21 U.S.C. § 963. (D.E. No. 61). The Court finds that Mr. Nwokedi is ineligible for the sentence reduction he seeks because his December 8, 2016 sentence was determined using Sentencing Guidelines that incorporated Amendment 782—i.e., the November 2014 Sentencing Guidelines. Quite simply, Mr. Nwokedi already received the benefit of Amendment 782 at sentencing. Accordingly, his motion must be denied. An appropriate Order accompanies this Memorandum.

s/Esther Salas

Esther Salas, U.S.D.J.